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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,239	01/12/2001	Mark Landesmann	084561/0103	7844
22428	7590	11/03/2004	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			LE, KHANH H	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/758,239

Applicant(s)

LANDESMANN, MARK

Examiner

Khanh H. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 181-223 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 181-223 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **Detailed Action**

1. This Office Action is in response to the Response and Amendment dated June 30, 2004. As requested, claims 181-183, 187-193, 196-198 are amended. Claims 181-199 were pending with claims 181, 196, 197, 198 being independent. New claims 200-223 have been added. Thus claims 181-223 are presently pending with claims 181, 196, 197, 198, 200, 201 being independent.

### **Objections to Drawings:**

2. Withdrawn as to item 10 in Figure 1 thanks to the drawing amendments.

### ***Claim Rejections - 35 USC § 101***

3. Withdrawn as to claims 181, all its dependents (i.e. claims 182-195) and claim 197 are rejected under 35 U.S.C. 101 because the claimed inventions are directed to non-statutory subject matter.

### **Response to Remarks**

4. **Arguments as to claim 181:**

1) Regarding a “different incentive function”, no specific definition for such is pointed out, contrary to argument. Thus the broadest reasonable interpretation rule applies. The examiner notes that a different incentive function to calculate a particular amount is disclosed in Day at col. 3 lines 33, especially col. 4 lines 18-31. Indeed, the use of “targeting parameters” to

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derive an incentive of varying amounts implies use of an certain incentive function or relationship to link the parameter to the calculation of the incentive amounts.

2) Applicants argue that the distribution priorities are calculated after a threshold decision has been made to distribute a given set of incentives. However claim 181 does not state that in particular. For better readability, claim 181 is analyzed below with numbers added to the various steps. Nothing in claim 181 requires that step 5) “electronically determining a particular distribution priority” necessarily has to follow step 4) of deciding to distribute a given set of incentives.

“Test for determining whether steps of method claim that do not specifically recite order must nevertheless be performed in order in which they are written requires examination of claim language to ascertain whether, as matter of logic or grammar, steps must be performed in order written, and if not, then remainder of specification is examined to determine whether it directly or implicitly requires narrow construction; principle that number of embodiments disclosed in specification is not determinative of meaning of disputed claim terms, and that claims are not ordinarily limited in scope to preferred embodiment, applies with equal force where limitation to be imported from specification is order of method steps, rather than limitation on specific claim term.” *Altiris Inc. v. Symantec Corp.*, 65 USPQ2d 1865 (CA FC 2003). Here neither the claim language, as matter of logic or grammar, nor anything in particular in the specifications require a narrow interpretation as urged by Applicants.

Thus, it is interpreted here that the distribution priorities are equivalent to the selection of a buyer for a certain incentive. That is, if a buyer A is selected for a particular incentive and another buyer B is not, for the same incentive, then it is interpreted that a distribution priority has been determined for that incentive, for each buyer, A and B, implicitly based on their scores, such that the priority for A may be 1 and the priority for B is 0 for no receipt of the incentive.

3) Applicants argue at p. 17, 2<sup>nd</sup> full paragraph that the “incentive level” means a “level of distribution”. Nothing in the claim requires such interpretation. Applicants further argue that

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once an incentive have been determined to be distributed, then the level of distribution as well as the distribution priority is determined. Again, nothing in the claim requires such interpretation.

Thus the previous rejection of claim 181 is maintained . Some rejections under 102 are changed due to the amendments.

### **Claims Rejections. 35 U.S.C. 102**

5       The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6.       **Claims 181, 183, 185-188, 192-198 are rejected under 35 U.S.C. 102(e) as being anticipated by Day, US 6484146, hereinafter Day.**

#### **Summary of Day:**

Day discloses presenting specialized benefits based on actual purchasing behavior information (abstract). Day teaches the desirability of knowing who buys from competitors so to provide competitive offers (col. 1 l. 50-55; col.2 l. 13-15; col. 2 l. 12+). Day also discloses the desirability of using actual purchasing records, other than at the electronic point of sales, in order to achieve that relevant targeting goal ( col. 1 l. 60-col.2 l. 2).

Thus Day discloses:

Claim 181.     A computer-implemented advertising method, comprising:

1) identifying a distribution limit (see at least col. 14 lines 52-56, col. 6 lines 57-60: “maximum limit”)and,

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2) a different incentive function (see at least col.4 lines 18-31, use of “targeting parameters” to derive an incentive implies use of an certain incentive function or relationship to link the parameter to the incentive) associated with each of a plurality of advertisers;

3) deriving at least one score for each of a first plurality of buyer entities (see at least col.4 lines 18-31, “targeting parameter” is interpreted as a score), wherein the at least one score: is calculated/updated based on at least one of an entry of a (new) purchase record, (see at least col.7 line 66- col. 8 line 37: Day’s disclosure of monitoring of redemption of offers and modifying the offers based on the new data is interpreted as the earlier score (based e.g. on category) is being updated so that offers may be modified based on the new data.)

4) for each of a second plurality of the buyer entities, selecting a plurality of incentives, with each of the incentives associated with at least one different advertiser, based on the at least one score and the incentive function (see at least col.4 lines 18-31; col. 14 lines 52-56; col. 6 lines 57-60),

wherein the selecting of each of the incentives includes determining an amount of the incentive level (interpreted as an incentive amount) based at least in part on the incentive function (see at least col.4 lines 18-31; col. 14 lines 52-56; col. 6 lines 57-60), associated with the advertiser who is associated with the incentive;

5) determining a particular distribution priority associated with each of the incentives for each of the buyer entities based at least in part on the at least one score (see at least col. 14 lines 52-56; col. 6 lines 57-60: when, e.g., the maximum discount is accepted, the offer is no longer distributed i.e. the distribution priority changed) and

6) distributing a plurality of the incentives (see at least Figure 1, item 24 and associated text; col. 4 line 66+), with each incentive distributed based on its associated distribution priority for the buyer entity (see at least col. 14 lines 52-56; col. 6 lines 57-60: when, e.g., the maximum discount is accepted, the offer is no longer distributed i.e. the distribution priority changes).

Claim 183 (dependent on claim 181).

Day further discloses the at least one score is calculated based on data received from the associated buyer entity and the data corresponds to purchase records.  
(see at least col. 4 lines 18-31, “targeting parameter” is interpreted as a calculated score based on data received indirectly from the buyer based on the quantity of goods bought, per categories, which is interpreted as “purchase records”).

Claim 185 (dependent on claim 181).

Day discloses the incentives are distributed via a plurality of distribution channels (see at least col. 5 lines 2-4).

Claim 186 (dependent on claim 181).

Day further discloses the incentives are selected using at least one threshold (see at least col. 4 lines 18-31, “targeting parameter” as a quantity bought of a certain product category is interpreted as threshold).

As to claims 187, 188 (dependent on claim 181) wherein the data comprises at least 3 of : entry of POP’s (Day, abstract), information that incentive has been accepted (see at least col. 7 line 66- col. 8 line 30) , information of follow-up purchase with purchase date/location (see at least col. 7 line 66- col. 8 line 30).

Claim 192 (dependent on claim 181).

Day further discloses the distribution priority is determined based on at least one of a date, a time, the budget limit, and previous buyer entity responses (see at least col. 14 lines 52-56; col. 6 lines 57-60).

Claim 193 (dependent on claim 181).

Day further discloses an interface provides access for the advertisers to a database of database information related to the buyer entities (see at least col. 3 line 65-col. 4 line 31).

Claim 194 (dependent on claim 193).

Day further discloses the interface receives queries and provides the database information in response to the queries (see at least col. 3 line 65-col. 4 line 31).

Claim 195 (dependent on claim 194).

Day further discloses decisions are capable of being made regarding the incentives based on the database information (see at least col. 3 line 65-col. 4 line 31).

Claims 196 and 197, which parallel method claim 181 in computer program and system formats are rejected on the same basis.

Claim 198.

The features of claim 198 which are common to those of method claims 181, 194, 195, addressed above, are rejected on the same basis.

Further Day discloses .. the at least one score being updated based on at least three of an entry of a new purchase record, information indicating that at least one incentive has been accepted, information regarding follow-up purchases (see at least col. 7 line 66- col. 8 line 30: Day's disclosure of monitoring of redemption of offers and modifying the offers based on the new data is interpreted as the earlier score (based e.g. on category) is being updated so that offers may be modified based on the new data. Further the monitored redemption of offers constitutes



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all 3 types of data :a new purchase record, information indicating that at least one incentive has been accepted, information regarding follow-up purchases).

### **Claims Rejections. 35 U.S.C. 103**

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**8. Claims 182 are rejected under 35 U.S.C. 103(a) as being unpatentable over Day as applied to claim 181 in view of Goldhaber, US 5855008, hereinafter Goldhaber.**

**Note:** Goldhaber discloses:

A consumer driven system ( i.e. consumer owns the profiles : col 14 l. 56-60; col 6 l. 28-35; consumer shares these profiles as desired: col 8 l. 40-57), via trading houses (see col 19-20) , for the benefit of both consumers and advertisers ( col 4 l. 25-31).

The benefit to consumers is to receive competing content/ads customized to their needs/preferences. To advertisers, use of consumer profiles allow reaching more willing customers whose attention has been secured w/ relevant customized ads/offers. GOLDHABER further discloses actual purchase histories ( or proofs of purchases, hereinafter, "POP's") are known to be valuable for advertisers: to this end advertisers have used point of sale tracking (see GOLDHABER ., col 6 l. 28-35), and GOLDHABER .'s invention includes on-line POP's (col 6 l. 50-65; col 13-20; col 7 l. 31-32).

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GOLDHABER discloses user voluntary submission of profiles in exchange of a benefit from plural competing independent providers(col 8 l. 1-18; receipt of targeted information, specialized targeted ads ( col 6 l. 28-35; col 8 l. 22-40), payments for viewing ads); complementing the profile by allowing tracking of on-line behavior including on-line transactions (POP's) (col 6 l. 50-65; col 13-20; col 7 l. 31-32) and tracking of other habits (col 6 l. 50-65) ; interactive user editing/ deletion of transaction records from the profile (col 6 l. 50-65); protection of privacy (col 7 l. 62-67;col 14 l. 137 -39); interacting with presented ads (col. 16 l. 17-20) ; rating of presented ads (col. 13 l. 50-51); matching of consumers to advertisers criteria ( col 14 l. 30-46); consumer profiles stored at their PC or in another database of the on-line system ( col 14 l. 47-54); only information matched above certain threshold set by the consumer is delivered ( col 14 l. 56-62); coupons and discount offers to induce buying (col 3 l. 30-45); internet advantages (col 3 l. 48-55); credit histories as commodities ( col 20 l. 38-55).

**Claim 182 (dependent on claim 181)**

Day does not disclose

allowing the buyer to disable the receiving of said data if said data not received directly from the buyer, however GOLDHABER does (see GOLDHABER at least col.6 lines 50-65: interactive user editing /deletion of transaction records from profile ).

It would have been obvious to one skilled in the art at the time the invention was made to add GOLDHABER to Day to allow submission of POP's by the user directly into the incentive matching. system as taught by GOLDHABER

**9. Claims 184, 189, 220-223 are rejected under 35 U.S.C. 103(a) as being unpatentable over Day.**

Claim 184 (dependent on claim 181).

Day does not specifically disclose the at least one score is indicative of a probability that the associated buyer entity will become a customer of the advertisers. However Day discloses “targeting parameter”, interpreted as a calculated score, based on actual purchases as discussed above (see at least col.4 lines18-31). Further Day discloses evaluating (scoring)a customer’s loyalty to a competitor based on his/her quantity and/or frequency of purchases from the competitor (see at least col.4 lines 18-31: e.g. buying “80% of the time”) with the intent of offering specific incentives to entice such customers away from the competitor (see at least col. 4 lines 13-31). In view of these Day teachings, it would have been obvious to one of ordinary skill in the art, at invention time, to add calculating the probability that the buyer may become a customer of the advertisers (for example a “80% of a time buyer” may be viewed as a 20% potential switcher) to Days’ teachings because such probability expressions would be just another way to express the “target parameters” as taught by Day, based on which to fashion such specific incentives, also as taught by Day.

Claim 189 (dependent on claim 181).

Day does not specifically disclose the incentives are selected manually. In view of Day’s teachings of automatic selecting/dispensing of incentives, it would have been obvious to one of ordinary skill in the art, at invention time, to revert to the slower process of doing all these steps manually, if the system lacks the capability to so process automatically. The result is the same, as expected, albeit slower, thus the claim cannot be patentable.

As to claims 220-223 (dependent on claims 181, 196-197, 198),Day does not directly disclose the distribution limit being a monetary budget limit . However it is obvious behind a coupon distribution limit is a monetary coupon expenses limit justifying the quantity limit. Thus it would have been obvious to one skilled in the art at the time the invention was made to add a monetary limit to the distribution limit as a logical derivative of the Day’s disclosure.

**10. Claim 199 is rejected under 35 U.S.C. 103(a) as being unpatentable over Day in view of Gardenswartz et al, US 6298330 B, hereinafter Gardenswartz.**

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Claim 199 (dependent on claim 198).

Day discloses the database information includes information received from the buyer entities, (via the store computers) (see at least col. 3 line 65-col. 4 line 31). Day does not specifically disclose that specific names of customers are not released to advertisers. However, Gardenswartz discloses protecting consumer identities from advertisers while allowing targeting based on anonymous profiles (col. 13 l. 44-51). It would have been obvious to one of ordinary skill in the art, at invention time, to add that Gardenswartz's teaching to Day in order to protect the customers' privacy as taught by Gardenswartz.

**11. Claims 191, 201-202 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldhaber, US 5855008, hereinafter Goldhaber, in view of Weinblatt, US 5515270, hereinafter Weinblatt, and further in view of Day, US 6484146, hereinafter Day.**

Goldhaber discloses:

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A consumer driven system ( i.e. consumer owns the profiles : col 14 l. 56-60; col 6 l. 28-35; consumer shares these profiles as desired: col 8 l. 40-57), via trading houses (see col 19-20) , for the benefit of both consumers and advertisers ( col 4 l. 25-31).

The benefit to consumers is to receive competing content/ads customized to their needs/preferences. To advertisers, use of consumer profiles allow reaching more willing customers whose attention has been secured w/ relevant customized ads/offers. GOLDHABER further discloses actual purchase histories ( or proofs of purchases, hereinafter, "POP's") are known to be valuable for advertisers: to this end advertisers have used point of sale tracking (see GOLDHABER ., col 6 l. 28-35), and GOLDHABER .'s invention includes on-line POP's (col 6 l. 50-65; col 13-20; col 7 l. 31-32).

GOLDHABER discloses user voluntary submission of profiles in exchange of a benefit from plural competing independent providers(col 8 l. 1-18; receipt of targeted information, specialized targeted ads ( col 6 l. 28-35; col 8 l. 22-40), payments for viewing ads); complementing the profile by allowing tracking of on-line behavior including on-line transactions (POP's) (col 6 l. 50-65; col 13-20; col 7 l. 31-32) and tracking of other habits (col 6 l. 50-65) ; interactive user editing/ deletion of transaction records from the profile (col 6 l. 50-65); protection of privacy (col 7 l. 62-67; col 14 l. 137 -39); interacting with presented ads (col. 16 l. 17-20) ; rating of presented ads (col. 13 l. 50-51); matching of consumers to advertisers criteria ( col 14 l. 30-46); consumer profiles stored at their PC or in another database of the on-line system ( col 14 l. 47-54); only information matched above certain threshold set by the consumer is delivered ( col 14 l. 56-62); coupons and discount offers to induce buying (col 3 l. 30-45); internet advantages (col 3 l. 48-55); credit histories as commodities ( col 20 l. 38-55).

Thus as to claims 191, 201-202, GOLDHABER discloses

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A method comprising:

receiving information from each of a plurality of buyer entities comprising demographic information;

receiving from each of the buyer entities second information associated with one web-browsing input;

electronically storing such information

for a plurality of product or service items offered for sale, electronically deciding on and facilitating offering an incentive in exchange for a purchase action.

As to

wherein the manufacture, marketing, distribution, and payment and providing of such products are not carried out by the system in the ordinary course of business.

arguably GOLDHABER does not specify such.

(However GOLDHABER discloses a distributed system with many servers (col 8 l.20-39, especially l. 30-33). therefore the POP's could be interpreted as being not generated by the matching/incentives delivering system. Further, at col 7 l. 31-32, GOLDHABER discloses automatic tracking of the user previous Internet usage to complement her profile, which at least suggest *any* internet usage/transaction, i.e. not limited to the matching/incentives delivering system.

Further, Weinblatt, discloses several data collection methods for marketers who desire to collect actual purchase histories. One is via a bar code reading apparatus, (col 1 l. 56+); another is via in- store computer systems (col 2, l. 13+), a third is via a home unit wherein proofs of purchases (POP's) are scanned by the consumer and the different purchase items categorized and used to trigger rewards (col 4 l. 59+). Weinblatt also discloses that people are interested to directly and voluntarily submit their POP's in exchange for rewards (col 4 l. 59+).

As discussed above, GOLDHABER discloses , through his system, the benefit to consumers is to receive competing content/ads customized to their needs/preferences. To

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advertisers, use of consumer profiles allow reaching more willing customers whose attention has been secured with relevant customized ads/offers. GOLDHABER further discloses “POP’s” are valuable for advertisers who have used point of sale tracking (see GOLDHABER ., col 6 l. 28-35), and GOLDHABER .’s invention includes on-line POP’s (col 6 l. 50-65; col 13-20; col 7 l. 31-32).

It would have been obvious to one of ordinary skill in the art, at invention time, to add WEINBLATT’s teaching of directly submitting POP’s by scanning into a home unit to GOLDHABER’s system of voluntary submission of profiles including POP’s profiles, because the consumer would be interested in obtaining highly competitive offers based on POP’s ( a kind of reward or benefit), as taught by GOLDHABER. Further, it would have been obvious to one of ordinary skill in the art at invention time to incorporate the WEINBLATT’s POP’s submission method into GOLDHABER’s system in view of WEINBLATT’s teaching that this is another and less expensive way to collect POP’s which are valuable to marketers (Weinblatt, col 2 l. 13-36).

**12. Claims 203-204, 209-218 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldhaber, in view of Weinblatt, as applied to claims 201-202 and further in view of Day, US 6484146, hereinafter Day.**

As to claims 203-204, as to “said benefit not normally and publicly accessible to said buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent” GOLDHABER does not directly disclose such.

However, Goldhaber discloses specialized targeted advertisements from each of the plurality of said different third party advertisers,(abstract, col 8 l. 35-40: highly targeted advertising; col. 6l. 28-35; col 8 l. 22-40).

Further Day discloses presenting customized preferential specialized benefits based on actual purchasing behavior information (abstract). Day teaches the desirability of knowing who buys from competitors so to provide competitive offers ( col 1 l. 50-55; col 2 l. 13-15; at col 2 l. 12). Day also discloses the desirability of using actual purchasing records, other than at the electronic point of sales, in order to achieve that relevant targeting goal (col. 1 l. 60-col 2 l. 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add Day's teachings of very differentiated customized special offers based on actual purchasing behavior information (Day, col 8 l. 1-15) to Goldhaber's teaching of voluntary supplying of POP's to provide very differentiated competitive offers and better induce purchasing based on specific monitored behaviors as taught by Day.

Further, as to "said benefit do not include material conditions that are different from said at least one action", a coupon usually requires only purchase of the item as the one condition, thus "said benefit do not include material conditions that are different from said at least one action".

As to claims 205-208 (dependent on claims 201-204),  
wherein the making at least one decision further includes :

- determining a function and distribution-related limit associated with one of the incentives based in part on information received from an advertiser
- receiving newly-submitted purchase records of the buyers with condition precedent that the function and distribution-related limit has been determined;
- making a new decision regarding the offering,

said new decision based at least in part on the function, the distribution-related limit.  
and the newly-submitted purchasing records;  
distributing the incentive based at least in part on the new decision; and  
halting the distribution when the distribution-related limit is met.



GOLDHABER does not specifically disclose but Day discloses obtaining additional information on whether the buyer entity made a follow-up purchase or a co-purchase contemporaneous with or after accepting the incentive and inputting the additional information to be stored. (monitoring of redemption of offers, and updating of profiles (Col. 14 l. 52-64, Fig 12-14; claims 15, 22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add this particular feature of Day to Goldhaber is to determine the effect of the special offers on consumer buying behaviors and adjust offers accordingly as taught by Day.

As to claims 209-212 (dependent on claims 201-204), GOLDHABER discloses wherein the making at least one decision further includes providing access to potential-audience-information containing at least part of the data or information derived from the data to at least one of the third party advertisers via an interactive user interface (see at least col. 4 lines 25-31 ; col. 19-20),

receiving audience and incentive-definition-information from third party advertisers,  
selecting/presenting output-information to the advertisers  
based on the potential audience-information, the audience and  
incentive-definition-information,  
receiving parameter information from the third party advertisers,  
and making the at least one decision in part based on the parameter  
information (see at least col. 14 lines 30-46).

As to claims 213-214, Official Notice is taken that targeting based on location of a user wireless device is known before Applicant's invention time thus it would have been obvious to one skilled in the art at the time the invention was made to add basing the incentive decision on the location of wireless device because directing consumers to relevant businesses proximal to their current locations is effective marketing.

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As to claims 215–218 (dependent on claims 201-204), re. distribution of the incentive via interactive TV, Official Notice is taken that such incentive distribution method is well-known. It would have been obvious to one skilled in the art at the time the invention was made to add distribution of the incentive via interactive TV to the system of Goldhaber to extend the methods of distribution.

**13. Claims 219 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldhaber, in view of Weinblatt and Day, as applied to claims 201-202 and further in view of Dedrich., 5717923.**

As to claim 219 (dependent on claim 204) Dedrich discloses calculating price for offering the incentive based on information stored about the buyer (see at least col. 5 lines 20-30: ) It would have been obvious to one skilled in the art at the time the invention was made to ad Dedrich to Goldhaber and Weinblatt to allow charging the advertisers appropriately as taught by Dedrich.

### **Conclusion**

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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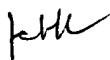
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 703-305-0571. The Examiner works a part-time schedule and can normally be reached on Tuesday-Wednesday 9:00-6:00.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 703-305-8469. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

October 29, 2004

  
KHL

  
**JAMES W. MYHRE**  
**PRIMARY EXAMINER**